

of the execution of a deed of separation and continued life apart thereunder, see *Brown v. Brown*, 5 Gill, 249; *Brown v. Brown*, 2 Md. Ch. 319.

For cases involving the proof of adultery, see *Shufeldt v. Shufeldt*, 86 Md. 519; *Kremelberg v. Kremelberg*, 52 Md. 553.

For cases involving the portion of the act of 1872, ch. 272, providing that the court might prohibit the guilty party from remarrying (repealed by the act of 1888, ch. 486), see *Dimpfel v. Wilson*, 107 Md. 338; *Garner v. Garner*, 56 Md. 128; *Elliott v. Elliott*, 38 Md. 361.

See notes to sections 36 and 38.

1904, art. 16, sec. 37. 1888, art. 16, sec. 37. 1860, art. 16, sec. 26. 1841, ch. 262, sec. 3. 1872, ch. 272.

38. Divorces *a mensa et thoro* may be decreed for the following causes, to wit: first, cruelty of treatment; secondly, excessively vicious conduct; thirdly, abandonment and desertion; and the court may decree such divorces forever, or for a limited time; and in all cases where divorce *a mensa et thoro* is decreed, it may be revoked at any time thereafter by the court granting the same, upon the joint application of the parties to be discharged from the operation of the decree; and the court may decree a divorce *a mensa et thoro* in cases where a divorce *a vinculo matrimonii* is prayed, if the causes proved be sufficient to entitle the party to the same; and in all cases where a divorce is decreed, the court passing the same shall have full power to award to the wife such property or estate as she had when married, or the value of the same, or of such part thereof as may have been sold or converted by the husband, having regard to the circumstances of the husband at the time of the divorce, or such part of any such property as the court may deem reasonable; and shall also have power to order and direct who shall have the guardianship and custody of the children, and be charged with their support and maintenance, and may at any time thereafter annul, vary or modify such order in relation to the children.

Cruelty of treatment; vicious conduct.

The term "excessively vicious conduct," defined. Drunkenness as an independent ground, does not justify a divorce. *Shutt v. Shutt*, 71 Md. 193; *Wheeler v. Wheeler*, 101 Md. 432.

The term "cruelty of treatment," must be understood in a technical sense. The causes must be grave and weighty, and such as show an absolute impossibility that the duties of the married life can be discharged. *Childs v. Childs*, 49 Md. 514. And see *Hawkins v. Hawkins*, 65 Md. 108.

Cruelty of treatment justifying a divorce under this section, held to have been proven. *Sharp v. Sharp*, 105 Md. 581; *Freeny v. Freeny*, 80 Md. 406; *Hawkins v. Hawkins*, 65 Md. 108; *Lynch v. Lynch*, 33 Md. 331; *Levering v. Levering*, 16 Md. 219; *Tayman v. Tayman*, 2 Md. Ch. 399; *Ricketts v. Ricketts*, 4 Gill, 108. (Cf. *Goodhues v. Goodhues*, 90 Md. 292; *Shutt v. Shutt*, 71 Md. 193; *Hoshall v. Hoshall*, 51 Md. 74; *Coles v. Coles*, 2 Md. Ch. 351; *Daiger v. Daiger*, 2 Md. Ch. 339. And see *Bowie v. Bowie*, 3 Md. Ch. 54.

Property rights.

Where a wife during coverture voluntarily and without fraud or undue influence, conveys her property to her husband or permits him to appropriate it with her consent and without any promise to restore it, a divorce does not vest her with an equitable title to such property. A decree of divorce has no retroactive effect and does not restore the parties to their former condition. Effect of a divorce upon property held as tenants by the entirety. *Reed v. Reed*, 109 Md. 692; *Tyson v. Tyson*, 54 Md. 37.